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TOWN CLERK, ACTON

Board of Appeals

NOTICE OF PUBLIC HEARING

The Board of Appeals will hold a Public Hearing on Monday, March 8, 2010 at 8:30 PM in Room 126 of the Town Hall.

on the following petition:

Hearing # 10-03

**Powder Mill Properties, LLC for a
VARIANCE from Section 8.3.2 of the
Zoning bylaw to allow modifications,
alterations, and structural changes while
being non-conforming to the FAR limits.**

**The property is located at 50 Powder Mill
Rd. Map J3-Parcel 49.**

Petitioner must be present, or send authorized representative

BOARD OF APPEALS

Ken Kozik

Chairman



TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9632
Fax (978) 264-9630

Board of Appeals
Hearing # 10-03

A public hearing of the **Acton Board of Appeals** will be held in the Town Hall on **Monday, March 8, 2010 at 8:30 PM** on the petition by Powder Mill Properties, LLC for a **VARIANCE** from Section 8.3.2 of the Zoning bylaw to allow modifications, alterations, and structural changes while being non-conforming to the FAR limits. The property is located at 50 Powder Mill Rd. Map J3/Parcel 49.



Date Received
TOWN CLERK
Jan 26, 2010
By: *[Signature]*

Town of Acton
Massachusetts

RECEIVED
Date Received
BOARD OF APPEALS
JAN 2 2010
By: *[Signature]*
ACTON BOARD OF APPEALS

Board of Appeals
(Form 5)
Petition For Variance

January 19 _____ 10
20 _____

I/We hereby petition the Board of Appeals for a public hearing and a variance from the requirements of Section _____ of the Zoning By-law, as provided by G.L. Chapter 40A, Section 10 to allow: Replace foundation where needed to make the building structurally sound including replacing the second floor along with the roof and clapboards where needed. Add (6) six new garage doors and replace existing windows as needed. Modify existing roofline to square off building adding 675 sq. ft. +. Fill in entire basement to eliminate one level of the building (130 x 33) to enter at street level. This will achieve the building to meet current regulations of floor loads (two) of 80 lbs. p.s.f. rather than the existing 30-40 lbs. per sq. ft. Add bath and two-floor stairway in the rear of the building. To allow reconstruction, alteration and structural change while being non-conforming to the FAR limits in the flood plain.

OFFICE USE ONLY

Seven copies of petition? _____

Location Map? _____

Plot plans? _____

Additional briefs? _____

List of abutters and other interested parties? _____

Fee - \$100.00/1-25 abutters?
\$125.00/26 + abutters? _____

Next Hearing Date? _____ # _____

Respectfully submitted,

Signed Powder Mill Properties, LLC.
(Petitioner)

Name Leo Bertolami

Address 15 Sea View Ave, Wianno, MA.

Phone # 978-430-4000

Signed *[Signature]*
(Owner of Record)

Name *[Signature]*

Address *[Signature]*

Phone # *[Signature]*

A variance may be granted by the Board of Appeals only if all the conditions, given in Section 10.5.5 are met. The Board may impose conditions, safeguards, and limitations as a part of their decision. (Section X-D)

REQUEST FOR VARIANCE

ACTON ZONING BOARD OF APPEALS

50 Powder Mill Road, Acton, MA

INTRODUCTION

Powder Mill Properties, LLC the Owner of property located at 50 Powder Mill Road, (Map J-3, Parcel 49 of the Town Assessor's Map), (the "Property") hereby requests a Variance from the provisions of the Town of Acton Protective Zoning Bylaw (the "Bylaw") for the alteration of a pre-existing nonconforming structure. The Property is located in the Powder Mill District. The flood plain is located on the Property according the 1988 FIRM Map 250176 0005c. The work in the flood plain is subject to a separate filing.

According to the Bylaw a Variance is required for a modification to a pre-existing nonconforming building unless the modification does not violate present dimensional requirements. The Petitioner seeks relief from the Bylaw in order to rehabilitate the existing building. The entire property is within the 200 foot Riverfront Riparian Zone. The building will be used in connection with automobile sales.

THE PROJECT

The Project involves:

1. Reinforcing the foundation with concrete to make the building structurally sound.
2. Renovating the second floor which is presently office space.
3. Replacing the roof and modifying the roof line with additional space to square the building.
4. Adding six garage doors on the first floor facing to the south within the existing footprint.
5. Fill in the basement with concrete (within the flood plain).
6. Add a bath and stairway at the rear of the building.

The net result will be to reduce the FAR for the Property.

THE PROPERTY

Petitioner seeks to renovate the existing dilapidated building for retail uses associated with automobile sales. The 38,000 square foot lot is located on the corner of Powder Mill Road and High Street. It contains a building and has sufficient frontage off Powder Mill Road and lot

area to meet the frontage and area requirements of the Bylaw. The Property has been used for retail purposes and parking in connection with retail uses. The Petitioner seeks relief so that it can reconstruct a building to meet safety standards.

The Property is located off Powder Mill Road and access to the Property is unlimited. The Owner owns the lot shown on a plan entitled "Parking Lot Layout and Grading Plan, 50 Powder Mill Road" prepared by Acton Survey and Engineering, Inc. dated January 14, 2010 (the "Plan") which includes land and buildings and is attached. It is bounded to the north by the Assabet River; to the south by Powder Mill Road; to the east by 56 Powder Mill Road; and to the west by High Street. According to the Owner and others, the Property has been used by retail office space for the past forty (40) years and has been known as the Prescott Building. The building to the west was demolished after it collapsed. As the application states, the stone/wood foundation is not structurally sound. The majority of the site is previously developed with impervious asphalt and needs to be renovated and rehabilitated for structural purposes. The second floor has been determined to not meet safety code requirements.

The building cannot be used without the structural renovations including replacing or adding foundation walls, beams and load bearing columns. In order to add support, the engineers have recommended that the basement level be filled with concrete as a large slab. Other than the roof line change, the exterior dimensions remain the same.

REQUEST FOR FINDINGS

Petitioner seeks a Variance with the following findings:

- 1. Owing To Circumstances Relating To Soil Conditions, Shape Or Topography Of Petitioner's Land Or Structures And Especially Affecting Such Plans Or Structures, But Not Affecting Generally The Zoning District In Which It Is Located, A Literal Enforcement Of The Zoning Bylaw Would Involve Substantial Hardship To The Petitioner.**

The parcel at 50 Powder Mill Road is unique because portions of the Property are extremely narrow limiting the ability to meet building setbacks. In addition there are wetland soil conditions to the rear of the Property and Riverfront Area under the Wetlands Protection Act associated with the Assabet River preventing expansion to the rear. The configuration of this lot and its restrictions are unique. The shape of the Property prevents compliance with the setbacks which is unique to the lots on the street.

The development of the Property is restricted by the Massachusetts Rivers Protection Act to the total amount of disturbed area on the Property under existing conditions. The Rivers Protection Act prevents new work within 100 feet of the top of the bank.

2. The Variance May Be Granted Under Proposed Conditions Without Substantial Detriment To The Public Good.

Granting the Variance will be consistent with the existing streetscape with the uses in the Village District near the street line. The Village District encourages business and commercial uses with density bonuses. There are at least five (5) car dealerships in the District. The building addition will not interfere with other uses in the District and is consistent with the uses and size of other retail establishments. Parking for the business is sufficient. The project will increase landscaping, reduce the FAR and will not increase flooding.

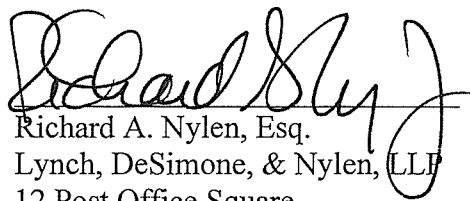
3. The Variance May Be Granted Without Nullifying Or Substantially Derogating From The Intent And Purpose Of The Zoning Bylaw.

The intent and purpose of the Acton Zoning Bylaw is to provide setbacks that allow property owners enjoyment of their property and to retain consistent appearance within the Village Overlay District. The granting of the Variance is for the use of the Property that has sufficient frontage and lot area in the Village Overlay District. Granting the Variance will allow the building to be rehabilitated and to be leased. Failure to rehabilitate the Project will leave the site in a deteriorated condition and a blight in this gateway.

We therefore request that the ZBA grant a Variance to allow the reconstruction.

Powder Mill Properties, LLC

By Its attorney,


Richard A. Nylen, Esq.
Lynch, DeSimone, & Nylen, LLP
12 Post Office Square
Boston, MA 02109
(617) 348-4500

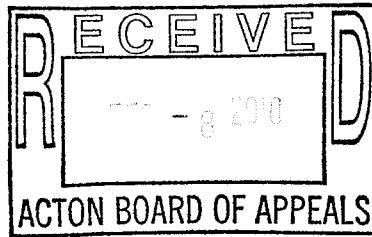
MICHAEL J. BERRY, P.E. CONSULTING STRUCTURAL ENGINEER, INC.

53 Knox Trail, Suite 201
Acton, MA 01720

June 30, 2009

Leo Bertolami
6 Proctor Street
Acton, MA 01720

978-461-6100
structural@gis.net



Re: Renovations to Existing Building at 50 Powder Mill Road, Acton, MA

Dear Leo:

Thank you for the opportunity to continue to support you with this project project. As a registered professional engineer in the Commonwealth of Massachusetts, I have performed a careful structural review of the 30' x 120' two-story building.

Specifically, in response to your request, I have reviewed the existing conditions and proposed renovations on Plan Sheets A-1 to A-4, dated June 23, 2009 prepared by E. J. Rempelakis Associates. I recommend the following structural renovations to comply with the Massachusetts State Building Code 780-CMR, Seventh Edition:

RECOMMENDATIONS

1. The existing field stone foundation walls and basement crawl space are inadequate for storage and require periodic repairs to maintain stability of the foundation in close proximity to the Assabet River. Install new footings for the proposed columns and flowable fill in lifts not exceeding two feet to secure footings and foundation perimeter.
2. The existing first floor joists and girders are inadequate to support live load in excess of 40 psf and well below the proposed minimum live loading of 80 psf. Flowable fill to grade will support first floor loading in excess of 80 psf.
3. The existing second floor joists and girders are inadequate to support live load in excess of 30 psf and well below the proposed minimum corridor loading of 80 psf. The proposed second floor and existing roof will be supported by a structural frame including up to nine interior columns and frames from front to back to support the existing roof and second floor loading in excess of 80 psf.

Thank you for the opportunity to support you with the proposed renovations. Please call me directly at (978) 461-6100 if you, your architect or Town of Acton building officials have any questions.

Sincerely,

Michael J. Berry, P.E.
Michael J. Berry, P.E.
Consulting Structural Engineer, Inc.

